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SENSITIVE
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STATE FOR WHA/CAR ACADIEUX, G/TIP SKRONENBURG, G, INL, DRL, WHA/PPC

E.O. 12958: N/A

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SUBJECT: THE BAHAMAS -- NINTH ANNUAL TRAFFICKING IN PERSONS (TIP) REPORT

REF: 08 STATE 132759; STATE 5577

¶11. (U) As requested in ref A, please find Post's responses to questions for the annual Trafficking in Persons Report.

Para 23 -- THE COUNTRY'S TIP SITUATION

¶12. (SBU) A. What are the sources of available information on trafficking in persons (etc.)?

Government officials, NGO representatives, journalists, individual activists with a knowledge of or interest in the relevant issues, as well as Embassy staff, provide information on possible trafficking cases. The reliability of such sources varies, but is generally limited to anecdotal, often second-hand reports. EmbOffs occasionally are made aware of suspicious cases, allowing for better substantiation, though these cases may not be reported to government authorities for various reasons. Due to the limited nature of sources, there is no reliable information on trafficking trends.

Past research reports by international groups, such as IOM, remain authoritative in the absence of reliable new data or field research on cases and trends. There are no known plans for the government or local NGOs to conduct further documentation of human trafficking, partly out of expressed fear of intruding into criminal areas more appropriate for law enforcement investigation. In the future, as comprehensive anti-trafficking legislation passed in November 2008 comes into force and is implemented, law enforcement agencies may be the best source of such information. Current information is very limited, however.

B-E: Is the country a country of origin, transit, and/or destination for internationally trafficked men, women, or children (etc.)?

There have been credible, though in some cases unsubstantiated reports indicating that The Bahamas is a country of destination for trafficking in persons. Economic and social conditions conducive to labor trafficking exist, whether internationally or within the country, e.g. after legal workers or smuggled economic migrants fall into trafficking situations at the hands of unscrupulous employers. While The Bahamas' economic growth has slowed sharply in 2008, the supply of relatively cheap foreign workers persists, especially for menial jobs or jobs not attractive to Bahamians. Even amidst the global economic downturn, illegal immigration and human smuggling, especially from storm-ravaged Haiti, continue to present major challenges to the Government of The Bahamas.

Post has received reliable reports in the past year and previously indicating that the labor trafficking problem persists. Anecdotal

evidence from NGO representatives, community activists, government officials, and media reports indicates that such cases continue to occur. Responsible government officials generally recognize the existence of this vulnerability, but some may question the scope and extent of the trafficking problem.

Reports indicate that individual employers may exploit migrant or temporary workers, legal and illegal, who have traveled willingly and accepted offers of labor, whether by changing the terms of contracts, withholding travel documents, refusing transportation back home, or otherwise subjecting workers to express or implied coercion. Exploitation may happen by threat of deportation, express or implied, or if old or new employment demands are not met. Haitian migrants are at particular risk, though known cases include persons from other Caribbean migrant groups and persons from countries not normally suspected of being source countries for trafficking victims. It is not known whether organized smugglers work with employers to fill needs for workers.

The extent of trafficking remains unknown, as there are no reliable statistics or estimates available to quantify trafficking. There are no allegations that organized crime syndicates are responsible for trafficking.

According to a September 2006 IOM study on Haitian migration, an estimated 30,000-60,000 Haitians living in The Bahamas "are not well integrated into Bahamian society." The study found that Haitians distrusted Bahamian authorities and occasionally leveled accusations of abuse. The IOM study also found that employers used migrant labor without regard to legality of employment, that Haitian workers may be surcharged by employers to obtain documentation, and that

NASSAU 00000099 002 OF 006

Haitian workers claimed to be paid wages unacceptable to Bahamian workers. The 2006 study followed the IOM's 2005 Exploratory Assessment of Trafficking in Persons in The Bahamas, in which IOM concluded that The Bahamas provides an environment "fertile for facilitating the criminal activity of trafficking in persons."

In past years, widely reported instances of deportations of groups of foreign women discovered working illegally in adult entertainment settings indicate that situations conducive to sex trafficking may also occur. Media and other reports in 2008 pointed to cases of foreign women, such as Jamaicans, being lured into prostitution in The Bahamas under false pretenses. Hard evidence, though, is still lacking as those affected are quickly deported or leave the country of their own accord.

Details about the identity or methods of potential traffickers are not known in most cases, although it is fair to assume, from available information and limited documentation, that the promise of legitimate jobs in the tourism or entertainment sectors are used to lure migrants, who may subsequently fall into trafficking situations.

Para 24 - SETTING THE SCENE FOR THE GOVERNMENT'S ANTI-TIP EFFORTS:

A-B: Does the government acknowledge that trafficking is a problem in the country (etc.)?

Yes. The government, elected in May 2007, declared adherence to international standards on human trafficking a priority in June 2007 and has passed comprehensive anti-trafficking legislation and ratified the Palermo Protocols to the Convention Against Transnational Organized Crime. The new government moved to speed up adjudication of immigration petitions in order to regularize persons with a valid claim to status, while expelling those without such a claim, and made some progress in this regard. The minister responsible for immigration appointed in a July 2008 cabinet reorganization personally flew to an outlying island in early 2009 to preside over the granting of citizenship to a number of longtime Haitian residents. Successive internal reorganizations and continuing close cooperation with U.S. law enforcement agencies has encouraged a broader view of the trafficking problem in lieu of the

narrow, immigration-focused approach which obtained in past years.

Previously, trafficking was not recognized as a significant issue because there were no complaints to the immigration authorities or police regarding trafficking, although some government officials privately acknowledged potential problems. Officials receiving complaints, particularly of the subtle types of labor trafficking which may exist, still lack sufficient awareness or training to recognize the issue as a trafficking, as opposed to an immigration problem, and react to it appropriately. But there have been significant attitude shifts.

The Immigration Department, which had taken the lead on trafficking issues up to that point, was shifted in May 2007 to the Ministry of National Security (MNS), joining other law enforcement agencies including the police and military. In July 2008, the portfolio was placed under the Deputy Prime Minister and Ministry of Foreign Affairs, under a new, energetic minister who quickly introduced major personnel changes in a bid for increased efficiency and public service. The 2007 organizational change encouraged a broader law enforcement view of trafficking that moved beyond the narrow immigration-focused approach. The 2008 restructuring completely removed old-guard officials who were seen to have minimized the trafficking issue in the past and even, for a time, blocked GCOB progress on addressing the problem through bureaucratic inertia.

Human trafficking was discussed around the table jointly with police, military, immigration, and public prosecutors in 2007-08, for example in the Joint Task Force of Operation Bahamas, Turks and Caicos (OPBAT). In addition, ICE/HSTC training offered to a wide cross-section of agencies in December 2007 was implemented in April 2008, with the participation of six different GCOB agencies, including police, military, prosecutors, and social services, and NGO representatives. USG actors plan to conduct further training based on the positive feedback and passage of new legislation.

Official awareness of trafficking as a form of trans-national crime, in addition to the usual preoccupations of drugs, migrants, and arms, has greatly increased. The adoption of comprehensive

NASSAU 00000099 003 OF 006

legislation now provides a framework for future efforts in investigation, prosecution, and victim protection in keeping with international standards. While the distinction between human smuggling and illegal immigration -- both major government challenges -- and trafficking as a victim-centered crime may still require explaining, it is now firmly on the broader government agenda.

An ad hoc governmental working group on trafficking included the Ministry of Foreign Affairs (MFA), Immigration Department (now under the MFA), Social Services and Women's Affairs (Ministry of Labour and Social Development), and NGO representatives. It met periodically to address trafficking in an inter-agency setting. Within this group in particular, the previous stress on immigration enforcement has shifted completely toward an emphasis on victim outreach and punishment of perpetrators.

The Department of Social Services has emerged as the likely lead agency going forward.

C: What are limitations on the government's ability to address this problem in practice (etc.)?

The government's ability to address trafficking in practice is limited by financial, resource and capacity constraints, as well as a lack of awareness of the distinction between human smuggling (and illegal immigration) and human trafficking. The government's inability to evaluate the extent of trafficking reduces its urgency in the face of competing law enforcement priorities, including counter-narcotics, countering migrant smuggling, stopping illegal weapons flows, and reducing violent crime in general. With the adoption of anti-trafficking legislation in line with international commitments, the emphasis will inevitably shift to investigation and prosecution, involving a much greater level of inter-agency

cooperation than the GCOB may be functionally, if not politically ready to deploy.

Local immigration requirements also contribute to conditions conducive to labor exploitation. These conditions are unlikely to change given the downturn in the economy and the renewed focus on immigration enforcement as a disincentive for continuing illegal immigration, from Haiti in particular.

Employers must request migrant work permits from the Department of Immigration before a foreign worker arrives in The Bahamas. Permits are delivered to the employer and employment is limited to the particular employer. The employer has the ability to cancel the permit and require the migrant to return home. Compliance with the work permit requirement is uneven, and immigration enforcement against illegal migrants is increasingly vigorous. Some employers do not request work permits, some receive permits after lengthy delays during which the worker is in The Bahamas without documentation, and some employers withhold passports from workers once visas are obtained.

Employers may exploit workers who have migrated willingly and accepted offers of labor by express and implied threat of deportation if employment demands are not met. Employers may use the threat of withdrawal of the employer-specific and employer-held permits, and/or the threat of turning the employee over to immigration, as a point of leverage to require migrant workers to work longer hours, at lower pay, and in conditions not permitted under local labor law.

Lack of migrant trust of authorities, vigorous immigration enforcement, lack of legal protections for migrant workers, and, not insignificantly, poor conditions in the countries of origin, especially storm-devastated Haiti, combine to create great disincentives for potential victims to complain to authorities, let alone seek assistance or repatriation. It is not clear that the passage of comprehensive anti-TIP legislation will have any impact on this reality.

D: To what extent does the government systematically monitor its anti-trafficking efforts (etc.)?

The government does not systematically monitor anti-trafficking efforts or produce assessments of those efforts. Government agencies cooperate with IOM, local NGOs, and the USG in anti-trafficking programs and workshops on an ad hoc basis. It is too early to tell how new legislation will impact monitoring efforts.

NASSAU 00000099 004 OF 006

Para 25 -- INVESTIGATION AND PROSECUTION OF TRAFFICKERS

¶3. (SBU) A-G, K: Legal Status, Penalties, and Prosecution:
On November 26, 2008, parliament passed comprehensive legislation specifically addressing trafficking in persons, whether for labor or sexual exploitation, for the first time (text of the law provided to G/TIP under separate cover for expert analysis). The maximum penalty for trafficking in persons is life imprisonment. The maximum penalty for a first-time rape offender is seven years' imprisonment, and in the case of a second or subsequent conviction, the penalty is 14 years' imprisonment. On November 26, 2008 parliament passed legislation increasing the maximum penalty to life imprisonment.

Under existing law still in force at the time of writing of this report, some traffickers could be prosecuted under Title X of the Statute Law, which addresses sexual offenses, abduction, prostitution and domestic violence. Under Chapter 99 of Title X, persons who attempt to procure an individual for the purposes of prostitution by force, threats, intimidation or drugging is guilty of a crime subject to eight years imprisonment. The law also contains provisions against the forcible detainment of women and children. Sexual assault and rape are crimes with penalties of 7

years to life imprisonment.

Apart from the new anti-TIP law, there are no known statutes that specifically punish labor trafficking or provide punishment for labor recruiters. Neither are there specific laws addressing employer confiscation of documentation, switching of contracts as part of labor trafficking or withholding of salary as part of trafficking. All such situations are apparently covered under the new TIP law (text of the law provided to G/TIP under separate cover for expert analysis).

There is a well-developed labor law that provides for minimum wages, maximum working hours, clear statement of terms of employment and significant additional worker protections. Relevant law protecting workers includes the Health and Safety at Work Act of 2002, the Employment Act of 2001, the Fair Labor Standards Act of 1988 and the Industrial Relations Act of 1970. Migrant workers often do not have access to these legal protections, however.

The Government has not prosecuted traffickers, had no occasion to cooperate on trafficking cases, and is not actively investigating cases of alleged trafficking due to a lack of formal complaints, in addition to lacking specific anti-TIP legislation for much of the reporting period. Nor is the government cooperating with other governments to investigate or prosecute trafficking cases. The GCOB is, however, cooperating actively with the USG in a multi-agency context with respect to anti-smuggling efforts, which provides a useful and practical template and platform for future cooperation in anti-trafficking cases.

The government does not provide specialized training for government officials, but participated in an IOM regional seminar on legislation, in a USG anti-trafficking training program aimed at law enforcement, and in anti-child trafficking trainings conducted by IOM. The Attorney General sent representatives to work on regional model legislation, six government agencies attended ICE/HSTC training, including the Attorney General's Office, and multiple GCOB and NGO representatives attended IOM's anti-child trafficking trainings on two occasions. USG actors plan to conduct further law enforcement training based on the positive feedback and passage of new legislation.

H: Extradition: The government has not been asked to extradite any person charged with trafficking in another country, but is generally cooperative with extradition requests. U.S. law enforcement agencies enjoy strong cooperation from the government, including on extradition of Bahamian nationals, and work closely with their counterparts.

I-J: Official government involvement: There is no evidence of general government involvement in or tolerance of trafficking. Quite the contrary, the internal restructuring and passage of legislation indicates that the government has turned a new page in anti-TIP efforts. Individual abuses may occur, however. In November 2006, PolOff received a report that a government official withheld the documents of his Philippine domestic worker, threatened to deport the worker for attempting to change employers, and kept the worker locked in her bedroom outside of working hours. The

NASSAU 00000099 005 OF 006

worker refused to file a complaint, was deported, and there has been no action against the official.

L: Not applicable.

M: There is no known child sex tourism problem. The Government ratified ILO Convention 182 concerning the Prohibition of the Worst Forms of Child Labor on June 14, 2002. It ratified ILO conventions 29 and 105 of Forced or Compulsory Labor on May 25, 1976. It has not signed or ratified the Optional Protocol on the Convention on the Rights of the Child. It signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons on April 9, 2001, and ratified it on September 26, 2008.

14. (SBU) A-D: Victim assistance, care, and support: There are no government programs, training, or funding in place to protect or assist trafficking victims, although new legislation includes provisions for victims' immunity from prosecution, protection of victims and witnesses, and special treatment for victims under immigration law. The law calls for the ministers responsible for national security and social services to implement a plan to provide appropriate services, in consultation with NGOs. Several local NGOs are willing to provide assistance and shelter to women and children victims, but express concerns over security. In addition, the Bahamas Crisis Center, which currently provides support to victims of sexual and domestic abuse, counseling, referrals to law enforcement, and a 24-hour hotline and related assistance, is willing to extend support to trafficking victims. The Crisis Center has not been approached by trafficking victims to date.

There are no formal government screening or referral processes to protect potential victims. There are no local NGOs specifically working to protect trafficking victims, though the leading human rights NGO addresses the issue as part of its outreach to local migrants. IOM works regionally on trafficking issues and enjoys a strong relationship with different government agencies. The Red Cross, the Salvation Army and local church groups provide assistance to illegal migrants and could assist trafficking victims.

E-J: Housing, referrals, victim rights and assistance: There are no known trafficking victims requiring long-term shelter or assistance nor prosecutions of trafficking cases under old or new legislation. Only a handful of credible, though in some cases unsubstantiated cases were brought to Post's attention, with the possible victims leaving the country immediately in every case.

K: The government does not provide specialized training for government officials, but participated in IOM and USG anti-trafficking training on a broad, inter-agency basis. USG actors plan to conduct further trainings based on the positive feedback and passage of new legislation.

L: There are no known cases of Bahamian victims of trafficking and no evidence of Bahamians falling victim to trafficking. The Bahamas' relative prosperity and the better situation of women and children, compared to other Caribbean states, serve to mitigate trafficking of Bahamians. The government actively promotes women's rights and equal opportunity for employment in the public and private sectors. Women are active in politics, and are represented at the highest levels of government, including the Minister of Social Development, President of the Senate, and many ranking officials in relevant ministries, including the Ministry of Foreign Affairs and Ministry of National Security. Children are required to attend school through age 16, and generally do so.

In short, like the U.S., The Bahamas is a magnet for immigration, not a source of emigration.

M: There are no international NGOs working with trafficking victims. Assistance available to victims of trafficking is the same as that described in A-D above.

Para 27 -- PREVENTION

15. (SBU) Did the government conduct anti-trafficking information or education campaigns during the reporting period (etc.)?

NASSAU 00000099 006 OF 006

A: There have not been any government-run anti-trafficking information or education campaigns in 2008.

B: The government does not comprehensively monitor immigration and emigration patterns for evidence of trafficking, or screen for potential trafficking victims along borders, though this may change following the passage of comprehensive legislation. The Immigration

Department maintains detailed information on detained persons from which it is possible to glean broad migration trends.

C: The government's Trafficking in Persons Working Group is the mechanism for coordination and communication between various agencies and its members serve as the points of contact for trafficking issues. Trafficking issues can also be raised in our bi-annual Counter-narcotics and Immigration Joint Task Force, as for example in December 2007. There is no public corruption task force.

D: The Government does not have a national plan to address trafficking in persons, though legislation calls for a plan to implement services for victims.

E: Post is not aware that the government undertook specific measures to reduce the demand for commercial sex.

F: Post is not aware that the government undertook specific measures to reduce the participation of its nationals in international child sex tourism. Post is not aware that this is a problem.

G: Not applicable.

COMMENT

¶6. (SBU) Evidence of human trafficking in The Bahamas arises primarily from the conditions obtaining in the labor market for low-skilled migrants, anecdotal media or other reports of possible sex or labor trafficking, and periodic first-hand reports to EmbOffs. Determining the number of trafficking victims remains a challenge, however, as incidents are few and incentives for victims to come forward are minimal. Lack of data makes it impossible to quantify the trafficking problem relative to other pressing criminal justice issues, though the number of cases if quantified would be minimal and certainly far below the previously accepted 100-case threshold. In light of this, and positive organizational and political developments under the current government, including demonstrated political commitment to and progress in adopting international standards and appropriate national legislation, and receptivity to further USG training across relevant law enforcement agencies, Post recommends that The Bahamas maintain its "special mention" status in the Ninth Annual Trafficking in Persons Report. The Bahamas has demonstrated steady and enviable progress over the last two years, and all indications remain that further progress will be achieved in the upcoming year and the years ahead.

ELMO